REMARKS

FORMAL MATTERS

Claims 1-57 are pending.

No claim is amendment.

The specification is amended to correct a typographical error.

No new matter is added.

ELECTION OF SPECIES

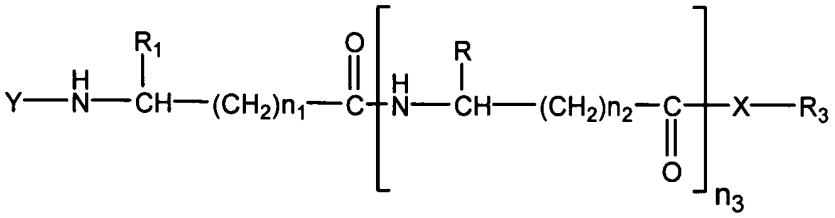
The Examiner required election of a single species -- i.e., a chemical structure in which all variables of the chemical formulae in claims 29, 53 and 55 are fully defined.

Applicants hereby elect the species as set out below with traverse. Applicants' species election is based on the species GRFN 1852-PLP3-Leu found in Examples 5 and 6 at specification pages 19-24. The thioester-compatible water soluble polymer CH_2-CO-(NH-CH_2-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-CH_2-NH-CO-CH_2-CH_2-CO)$_3$ in PLP_3 as found in, for example, claim 19.

The election of species is set out in detail below.

Claim 29

In the formula:



Applicants elect species where the C-terminal group is joined to a water soluble polymer via a thioester linkage, with the variables defined as follows:

Y is CLSQLHSGLFLYQGLLQALEGISPELGPTLDTLQLDVADFATTIWQQME

where Cys^1 is Acm protected;

R_1 is the side chain of glutamic acid;

R is the side chain of leucine;

n_1 and n_2 are each 0;

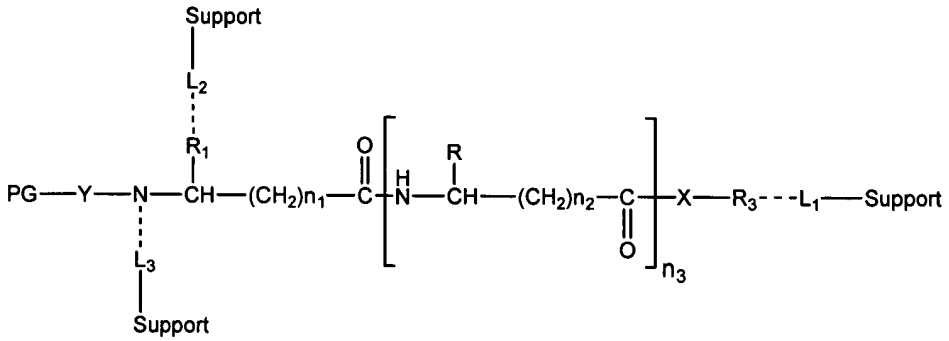
n_3 is 1;

X is sulfur; and

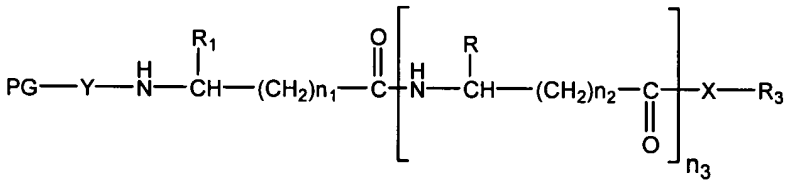
R_3 is $-CH_2$-CO-(NH-CH_2-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-CH_2-NH-CO-CH_2-CH_2-CO)$_3$-Leu.

Claim 53

In the formulae of claim 53:



and



Applicants elect species where the C-terminal group is joined to a water soluble polymer via a thioester linkage, with the variables defined as follows:

PG is Acm;

Y is CLSQLHSGLFLYQGLLQALEGISPELGPTLDTLQLDVADFATTIWQQME;

R_1 is the side chain of glutamic acid;

R is the side chain of leucine;

n_1 and n_2 are each 0;

n_3 is 1;

X is sulfur;

R_3 is $-CH_2-CO-(NH-CH_2-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-CH_2-NH-CO-CH_2-CH_2-CO)_3$-Leu;

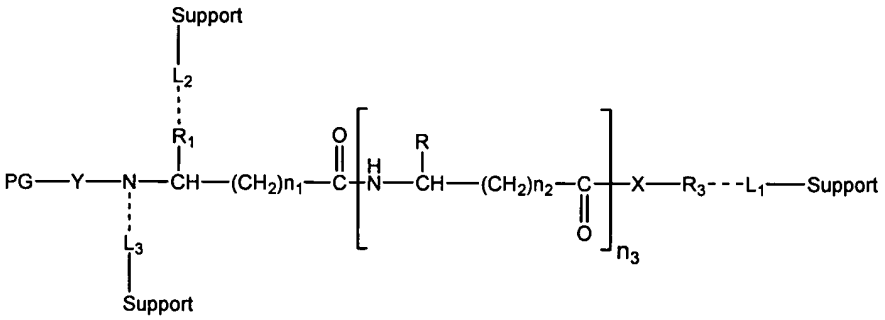
L_1 is absent;

L_3 is absent; and

L_2 is phenylacetamidomethyl linker.

Claim 55

In the formula:



Applicants elect species where the C-terminal group is joined to a water soluble polymer via a thioester linkage, with the variables defined as follows:

PG is Acm;

Y is CLSQLHSGLFLYQGLLQALEGISPELGPTLDTLQLDVADFATTIWQQME;

R_1 is the side chain of glutamic acid;

R is the side chain of leucine;

n_1 and n_2 are each 0;

n_3 is 1;

X is sulfur;

R_3 is $-CH_2$-CO-(NH-CH_2-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-O-CH_2-CH_2-CH_2-NH-CO-CH_2-CH_2-CO)$_3$-Leu;

L_1 is absent;

L_3 is absent; and

L_2 is phenylacetamidomethyl linker.

Claims which read on the elected species include 1-19, 21, 22, 25, 29-35, 38, 39, 42, 45-57.

Traverse

First, applicants note that the Office Action is not clear. At page 2, paragraph 1, the Examiner states that "these *species* are deemed to *lack unity of invention* because they are not so linked as to form a general inventive concept under PCT Rule 13.1." (emphasis added) However,

the Examiner later at page 2, paragraph 4 indicates that "Upon allowance of a generic claims, applicant will be entitled to consideration of claims to additional species . . ." The Examiner then indicates that all pending claims (claims 1-57) are generic. Office Action, page 3, paragraph 6. In short, the Examiner has mixed legal terminology and standards (lack of unity of invention) with legal standards and practices for election of species practice (e.g., allowance of generic claims entitles applicants to consideration of claims to additional species). Clarification is requested.

A finding of lack of unity in the present application is not appropriate. Indeed, the US International Search Authority, which prepared the International Search Report for claims of the parent PCT application, did not raise any lack of unity objection. Instead, the subject matter of all of claims 1-57 was searched. See International Search Report, attached to publication of parent PCT application WO 2004/061094.

As stated in the MPEP §803, if search and examination of an entire application can be made without serious burden, the examiner must examine the entire application on the merits, even though the entire application includes claims to independent or distinct inventions. It is the Applicants' position that it would not be unduly burdensome to perform a search on all of the claims together in the present application. The International Search Authority is in agreement with Applicants' analysis.

Furthermore, restriction between selenoesters and thioesters is improper. are improperly restricted. Mere Markush claiming is not a basis for restriction as the Examiner has indicated. Office Action, page 3, paragraph 7. PCT Rule 13.1 speaks directly to this very issue:

PCT RULE 13.3.
Determination of Unity of Invention Not Affected Manner of Claiming

> ***The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed*** in separate claims ***or as alternatives within a single claim.***

(emphasis added)

The Examiner's reasoning for the lack of a single general inventive concept under PCT Rule 13.1 actually argues *in favor* of examination of all claims in a single application. Indeed, the

various compounds a common activity and a common structure -- this should argue *for* examination of all claims in a single application without requirement for restriction.

For at least these reasons, Applicants traverse any lack of unity objection and corresponding restriction requirement as it may be asserted in the present Office Action.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number AMLN-044.

Respectfully submitted,
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Date: July 17, 2006

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Enclosure: Copy of Published Parent PCT Application, WO 2004/061094, with International Search Report

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150 mm y se incubaron a 37°C en CO_2 al 5% por 12 a 16 horas. El medio de TRRE fue incubado con células C75R en la placa de 150 mm por 30 minutos, y el sobrenadante resultante se recolectó y se centrifugó. La muestra concentrada se aplicó a SDS-PAGE de acrilamida al 10% y se transfirió electroforéticamente a una membrana de difluoruro de polivinilideno (Immobilon). La inmunotinción dio como resultado una banda única de 40 kDa, similar al tamaño encontrado en los fluidos biológicos (Figura 4).

El siguiente método y ensayo fueron utilizados a todo lo largo de los Ejemplos para medir la actividad de TRRE. Las células C75R y las células COS-1 fueron sembradas en placas de cultivo de 24 pozos a una densidad de 2.5×10^5 células/ml/pozo y se incubaron toda la noche (por 12 a 16 horas) en 5% de CO_2 a 37°C. Después de la aspiración del medio en el pozo, se incubaron 300 µl del medio TRRE en cada pozo de las placas de C75R y COS-1 por 30 minutos en 5% de CO_2 a 37°C (correspondiente a A y C mencionados más adelante, respectivamente). Simultáneamente, las células C75R en las placas de 24 pozos fueron también incubadas con 300 µl de medio fresco o el amortiguador